

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of JOSEPH HOLLAND, KATHRYN  
HOLLAND, SAMUEL HOLLAND, and ALISON  
HOLLAND, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LISA GAIL HOLLAND,

Respondent-Appellant.

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UNPUBLISHED

June 7, 2007

No. 275532

Ingham Circuit Court

Family Division

LC No. 00-066419-NA

Before: Fitzgerald, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(i), (g), (h), (j), (k)(vi), and (n)(i). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent was convicted of the murder and first-degree child abuse of her adopted son, Ricky, and sentenced to life in prison. The trial court terminated her parental rights to the remaining three adopted children and one biological child at the initial disposition. Respondent contends on appeal that termination of her parental rights was clearly erroneous and unnecessary because she made arrangements for her sister to care for her children during her imprisonment.

The presence of an alternate custodian, if suitable and able to provide a normal home life for the children, was relevant to whether clear and convincing evidence established subsections 19b(3)(g) and (h). The children were placed with paternal relatives before respondent's arrest and conviction and, although respondent did not contest out-of-home placement, she disagreed with where the children were placed. The trial court denied respondent's request to change placement or to hear evidence regarding suitability of her sister. The trial court's refusal to take proofs and change placement did not violate respondent's right to procedural due process. Whether or not to admit evidence is within the discretion of the trial court. *People v Smith*, 456

Mich 543, 549-550; 581 NW2d 654 (1998). In this case, the trial court did not abuse its discretion in declining to disrupt the children by moving them from their initial placements.

The evidence showed that respondent had failed to provide proper care and custody for the children by causing them extreme distress by murdering their sibling, and she was unable to provide proper care for them within a reasonable time due to her life sentence. Evidence regarding a suitable alternate custodian was not admitted. Subsections 19b(3)(g) and (h) were established and constituted proper grounds for termination of respondent's parental rights. Several other statutory subsections were established by clear and convincing evidence, and only one statutory ground was required to terminate respondent's parental rights. MCL 712A.19b.

Statutory subsection 19b(3)(k)(vi), and the first elements of (n)(i) and (b)(i) were established by evidence of respondent's conviction for murder and first-degree child abuse. The children suffered emotional harm related to the loss of Ricky and their parents' imprisonment, and they required long-term therapy. Statutory subsection 19b(3)(j) and the second elements of subsections (b)(i) and (n)(i) were established by the fact that the neglect and physical abuse inflicted upon Ricky was indicative of the neglect and abuse the other children would experience if returned to respondent's care, and the fact that residing with or continuing a bond with a parent who had murdered their sibling would be emotionally harmful. Although subsections 19b(3)(b)(i) and (j) presume the children's return to respondent, they were applicable and properly considered by the trial court because respondent had appealed her convictions and could be released and seek reunification with the children during her lifetime.

Further, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court based its best interests decision on the fact that the children were young and had a chance at stability and normalcy through adoption, that there was no financial or other benefit to the children in preserving respondent's parental rights, and that a bond between the children and respondent existed but should not be maintained because it was not healthy. All of these findings were supported by the evidence, and there was no evidence that terminating respondent's parental rights was clearly contrary to the children's best interests.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ David H. Sawyer

/s/ Peter D. O'Connell